

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WEST DIVISION AT CINCINNATI**

TEDDY NICHOLS)	Case No. C-1-02-0045
)	
Plaintiff,)	Judge Beckwith
)	
v.)	
)	
INDIANA MICHIGAN POWER CO.)	
RIVER TRANSPORTATION DIVISION)	
and/or AMERICAN ELECTRIC FUEL)	
SUPPLY, RIVER TRANSPORTATION)	
DIVISION)	

ANSWER OF DEFENDANTS TO THIRD AMENDED COMPLAINT

FIRST DEFENSE

Comes now Defendants, Indiana Michigan Power Co., incorrectly denominated as River Transportation Division and American Electric Fuel Supply, River Transportation Division, and for its Answer to Plaintiff's Third Amended Complaint, state as follows:

1. Defendant denies, each and every allegation set forth in paragraph 1 of Plaintiff's Third Amended Complaint.
2. Defendant denies, for want of knowledge or information sufficient to form a belief, each and every allegation set forth in paragraph 2 of Plaintiff's Third Amended Complaint.
3. Defendant denies, for want of knowledge or information sufficient to form a belief, each and every allegation in paragraph 3 of Plaintiff's Third Amended Complaint.
4. Defendant denies, for want of knowledge or information sufficient to form a belief, each and every allegation set forth in paragraph 4 of Plaintiff's Third Amended Complaint.
5. Defendant denies each and every allegation set forth in paragraph 5 of Plaintiff's

Third Amended Complaint.

6. Defendant denies each and every allegation set forth in paragraph 6 of Plaintiff's Third Amended Complaint.

7. Defendant incorporates by reference, reaffirms and restates each and every response to the foregoing paragraphs as if fully set forth herein in response to paragraph 7 of Plaintiff's Third Amended Complaint.

8. Defendant denies each and every allegation set forth in paragraph 8 of Plaintiff's Third Amended Complaint.

9. Defendant denies each and every allegation set forth in paragraph 9 of Plaintiff's Third Amended Complaint.

10. Defendant denies each and every allegation set forth in paragraph 10 of Plaintiff's Third Amended Complaint.

11. Defendant denies each and every additional allegation set forth in Plaintiff's Third Amended Complaint save those herein specifically admitted as true.

SECOND DEFENSE

12. Plaintiff's Third Amended Complaint, in whole or in part, fails to state a claim upon which relief may be based.

THIRD DEFENSE

13. Plaintiff's damages, if any, were caused by the negligence of Plaintiff and/or the negligence of some other person or entity for which Defendant is not liable.

FOURTH DEFENSE

14. Plaintiff's damages, if any, were caused by an unforeseeable, superceding and/or

intervening cause for which these Defendant is not liable.

FIFTH DEFENSE

15. Plaintiff has failed to mitigate damages.

SIXTH DEFENSE

16. Plaintiff's Third Amended Complaint is barred by lack of personal jurisdiction over Defendant.

SEVENTH DEFENSE

17. Defendant asserts venue is not proper in this Court.

EIGHTH DEFENSE

18. Defendant gives notice that they intend to rely upon each and every affirmative defense and avoidance available to it and reserves the right to amend this Answer during the course of discovery should additional affirmative defenses become relevant.

NINTH DEFENSE

19. The claims set forth in Plaintiff's Third Amended Complaint are barred by the relevant Statute of Limitations and/or the Doctrine of Laches

WHEREFORE, having fully answered, Defendant prays that Plaintiff's Third Amended Complaint be dismissed and that Plaintiff takes nothing thereby.

Respectfully submitted,

ss/Todd M. Powers

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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following
this 13th day of January, 2004:

Gary Wm. Baun, Esq.
Kirk Karamanian, Esq.
401 S. Old Woodward, Suite 320
Birmingham, MI 48009
Attorneys for Plaintiff

ss/ Todd M. Powers
Todd M. Powers